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Jens Jakobsen

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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/516,870
Filing Date: August 25, 2005
Appellant(s): JAKOBSEN ET AL.

Francis J. Maguire
Reg. No. 31,391
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 08 October 2009 appealing from the Office action mailed 29 May 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,583,179	Fortier et al.	6-2003
2003/0001816	Badarneh	1-2003
2001/0047263	Smith et al.	11-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. Claims 1, 3-6, and 9, 10, 12-17, and 19-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fortier et al. (US Patent 6,583,179) in view of Badarneh (US PAP 2003/0001816) and further in view of Smith et al (US PAP 2001/0047263).
2. Consider claim 1, Fortier teaches a method comprising:

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receiving an initial user input causing a communication device to be prepared for receiving an acoustic input of the user to perform said-speech recognition thereon (column 8 line 15-53, user selects database for searching, for example selecting a language);

receiving said acoustic input of the user and performing speech recognition thereon (column 2, line 12, step a), capturing word from speaker, and step b) receiving from speech recognition at least one representation of word);

performing a back-up operation alternatively to the speech recognition to enable said user to provide manual input in case of failure of said speech recognition of said acoustic input (column 7 lines 23-62 describes how if speech recognition returns no correct results, a user may for instance manually enter what they were trying to say.)

Fortier does not specifically teach that the communication device is mobile or that the backup manual input is performed as follows:

upon receiving a first manual user input by a multiple switching component, which is capable to exhibit a first input value and a second input value

displaying a list of a first set of data records in accordance with said first input value of said first manual user input or displaying a list of a second set of data records in accordance said second input value of said first manual user input, wherein data records of said first set of data records each comprise at least one instruction dedicated to a dialing application for dialing a telephone number comprised in said instruction, wherein data records of said second set of data records each comprise at least one

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instruction dedicated to a control function of at least one further application executed on said mobile communication device in accordance with said instruction and

upon receiving a second manual user input identifying one data record of said displayed list,

transmitting an instruction corresponding to said identified data record to at least one application of a plurality of applications executable on said mobile communication device.

In the same field of telephone menu selection and directory systems, Badarneh teaches using a mobile communication device (abstract),

upon receiving a first manual user input by a multiple switching component, which is capable to exhibit a first input value and a second input value (for instance actuator 28 found in figure 19 described in 0097, can be used to select “Book” or “menu” in figure 19L, described in 0104.)

displaying a list of a first set of data records in accordance with said first input value of said first manual user input (phonebook display of figure 19n, paragraph 0104 is presumably displayed after hitting “book” with actuator) or displaying a list of a second set of data records in accordance said second input value of said first manual user input (menu displayed figure 19m, described 0104) wherein data records of said first set of data records each comprise at least one instruction dedicated to a dialing application for dialing a telephone number comprised in said instruction (phonebook display of figure 19n, paragraph 0104 is presumably displayed after hitting “book” with actuator), wherein data records of said second set of data records each comprise at least one

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instruction dedicated to a control function of at least one further application executed on said mobile communication device in accordance with said instruction (menu displayed figure 19m, described 0104) ;and

upon receiving a second manual user input identifying one data record of said displayed list (paragraph 0104, phonebook can be accessed from menu by control element.),

transmitting an instruction corresponding to said identified data record to at least one application of a plurality of applications executable on said mobile communication device (paragraph 0104, phonebook can be accessed from menu by control element, Instruction here would be "access phonebook").

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use the multi-position actuator taught by Badarneh in place of the manual spelling input method of Fortier in order to provide a simpler, more logical and efficient means for data entry (Badarneh paragraph 0002).

This Combination of Fortier and Badarneh now suggests wherein said first set of data records represents all telephone directory entries associated with voice tags and selectable by speech recognition (When combining the manual directory search of Badarneh with the directory of Fortier, it would be obvious to include all entries accessible with speech recognition and containing voice tags as well in order to allow the selection method of Badarneh to behave as a backup to the speech recognition).

This combination of Fortier and Badarneh does not specifically teach or suggest wherein said second set of data records represents all device functions or device

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application functions, or both, associated with voice tags and controllable by speech recognition.

In the same field of telephone interfaces, Smith teaches allowing the user to navigate commands with speech recognition (figure 6 user can say call number, or directory, etc which are voice commands).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use the voice recognition of menu items as taught by Smith in the system of Fortier and Badarneh in order to provide greater functionality via speech recognition.

This combination now suggests wherein said second set of data records represents all device functions or device application functions, or both, associated with voice tags and controllable by speech recognition (When combining the manual directory search of Badarneh with the menu choices via speech recognition of Smith, it would be obvious to include all entries accessible with speech recognition and containing voice tags as well in order to allow the selection method of Badarneh to behave as a backup to the speech recognition).

3. Consider claim 3, Badarneh teaches at least one designation is assigned to each of the data records, said designation being displayable ("Book" or "menu" in figure 19L, described in 0104 represents the phonebook or the menu.).

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4. Consider claim 4, Fortier teaches displaying an indication to said user that an alternative manual user input is operable when receiving said initial user input (pre-recorded voice announcement to user informing them of options in case of failed recognition, column 11 line 15.).

5. Consider claim 5, Badarneh teaches the list of said first set of data records is arranged in a pre-determined sequence (figure 19n, it is inherent that the contacts must be ordered in some fashion for it to be possible to display them) and wherein said displaying of said list of said first set of data records comprises:

displaying at least one data record of said list of said first set of data records (figure 19n, shows different phonebook entries);

receiving a browsing input capable to exhibit a first browsing value and a second browsing value (actuator 28, described 0097.);

in case said browsing input corresponds to said first browsing value, displaying at least one data record in said pre-determined sequence subsequent to said at least one displayed data record (scrolling up and down described using control actuator 0089); and

in case said browsing input corresponds to said second browsing value, displaying at least one data record in said pre-determined sequence preceding said at least one displayed data record (scrolling up and down described using control actuator 0089).

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6. Consider claim 6, Badarneh teaches the list of said second set of data records is arranged in a pre-determined sequence (figure 19m, it is inherent that the options must be ordered in some fashion for it to be possible to display them.) and wherein said displaying of said list of said first set of data records comprises:

displaying at least one data record of said list of said first set of data records (figure 19m shows different options);

receiving a browsing input capable to exhibit a first browsing value and a second browsing value (actuator 28, described 0097.);

in case said browsing input corresponds to said first browsing value, displaying at least one data record in said pre-determined sequence subsequent to said at least one displayed data record (scrolling up and down described using control actuator 0089); and

in case said browsing input corresponds to said second browsing value, displaying at least one data record in said pre-determined sequence preceding said at least one displayed data record (scrolling up and down described using control actuator 0089).

7. Claim 9 is directed towards an application store having computer-executable instructions stored thereon (Taught figure 3, Fortier shows a computerized system that would inherently require a computer readable medium having computer-executable instructions stored thereon) for execution of a method similar to the method of claim 1 and is therefore rejected for similar reasons.

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8. Consider claim 10, Fortier teaches a communication device comprising:

pre-stored voice tags that are employable for speech recognition to enable selection of said-data records by speech input and recognition based on said voice tags (recognizer returns representations; column 2 line 16. These are analogous to tags as they are matched to the user utterance and returned. Column 8 lines 54-66, recognition uses a table of "predefined values.");

a speech recognition component for recognizing acoustic input via a microphone resulting in a selection of one of said data records in accordance with said acoustic input (column 2, line 12, step a), capturing word from speaker, and step b) receiving from speech recognition at least one representation of word);

a first actuator for activating said speech recognition component (column 8 line 15-53, user selects database for searching, for example selecting a language using softkeys.);

Fortier does not specifically teach:

a second actuator comprising a multiple switching component capable of generating a first input signal and a second input signal (), said second actuator operable with said speech recognition component for displaying a list of said first set of data records or said second set of said data records on a display of said mobile communication device in accordance with said first input signal and said second input signal wherein data records of said first set of data records each comprise at least one instruction dedicated to a dialing application for dialing a telephone number comprised in said instruction, wherein data records of said second set of data records each

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comprise at least one instruction dedicated to a control function of at least one further application executed on said mobile communication device in accordance with said instruction; and

a third actuator for selecting one data record of said list displayed on said display and for transmitting an instruction corresponding to said selected data record to at least one application for execution in accordance with said instruction ().

In the same field of telephone menu selection and directory systems, Badarneh teaches

a second actuator comprising a multiple switching component capable of generating a first input signal and a second input signal (actuator 28, described 0097 and 0089), said second actuator operable with said speech recognition component for displaying a list of said first set of data records or said second set of said data records on a display of said mobile communication device in accordance with said first input signal and said second input signal (paragraph 0089 and 0097, actuator used to browse menus) wherein data records of said first set of data records each comprise at least one instruction dedicated to a dialing application for dialing a telephone number comprised in said instruction (phonebook display of figure 19n, paragraph 0104 is presumably displayed after hitting "book" with actuator), wherein data records of said second set of data records each comprise at least one instruction dedicated to a control function of at least one further application executed on said mobile communication device in accordance with said instruction (menu displayed figure 19m, described 0104); and

a third actuator for selecting one data record of said list displayed on said display and for transmitting an instruction corresponding to said selected data record to at least one application for execution in accordance with said instruction (hitting down as shown in figure 19m selects the item highlighted).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use the multi-position actuator taught by Badarneh in place of the manual spelling input method of Fortier in order to provide a simpler, more logical and efficient means for data entry (Badarneh paragraph 0002).

This Combination of Fortier and Badarneh now suggests wherein said first set of data records represents all telephone directory entries associated with voice tags and selectable by speech recognition (When combining the manual directory search of Badarneh with the directory of Fortier, it would be obvious to include all entries accessible with speech recognition and containing voice tags as well in order to allow the selection method of Badarneh to behave as a backup to the speech recognition).

This combination of Fortier and Badarneh does not specifically teach or suggest wherein said second set of data records represents all device functions or device application functions, or both, associated with voice tags and controllable by speech recognition.

In the same field of telephone interfaces, Smith teaches allowing the user to navigate commands with speech recognition (figure 6 user can say call number, or directory, etc which are voice commands).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use the voice recognition of menu items as taught by Smith in the system of Fortier and Badarneh in order to provide greater functionality via speech recognition.

This combination now suggests wherein said second set of data records represents all device functions or device application functions, or both, associated with voice tags and controllable by speech recognition (When combining the manual directory search of Badarneh with the menu choices via speech recognition of Smith, it would be obvious to include all entries accessible with speech recognition and containing voice tags as well in order to allow the selection method of Badarneh to behave as a backup to the speech recognition).

9. Claim 12 contains similar limitations to claim 3, and is accordingly rejected for similar reasons.

10. Claim 13 contains similar limitations to claim 4, and is accordingly rejected for similar reasons.

11. Claim 14 contains similar limitations to claim 5, and is accordingly rejected for similar reasons.

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12. Claim 15 contains similar limitations to claim 6, and is accordingly rejected for similar reasons.

13. Consider claim 16, Badarneh teaches said second actuator is able to generate at least two different signals upon input of a user (actuator can be moved different ways, 0097, and obviously must generate different signals).

14. Claim 17 is directed towards a mobile communication device (taught by abstract Fortier and Badarneh abstract) performing similar functions as the method of claim 1 and is therefore rejected for similar reasons.

15. Claim 18 contains similar limitations to claim 2, and is accordingly rejected for similar reasons.

16. Claim 19 contains similar limitations to claim 5, and is accordingly rejected for similar reasons.

17. Claim 20 contains similar limitations to claim 6, and is accordingly rejected for similar reasons.

18. Consider claim 21, Badarneh teaches the method according to claim 1, wherein either said list of said first set of data records or said list of said second set of data

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records is displayed (figure 19n phonebook or figure 19m menu are displayed, but not at same time, see paragraph 0104.).

19. Consider claim 22, Badarneh teaches method according to claim 1, wherein said displaying of said list of said first set of data records or displaying said list of said second set of data records further comprises:

upon receiving a browsing input, browsing within the data records of the displayed list (paragraph 0089 describes using the actuator for browsing).

20. Consider claim 23, neither Fortier or Badarneh specifically teach wherein said first set of data records represents all telephone directory entries activateable by speech recognition. However, if all the telephone entries are activateable by speech recognition in Fortier, then it would have been obvious to one of ordinary skill in the art at the time of the invention that when the phonebook is displayed in Badarneh, all of the entries that would have been activateable by speech recognition would appear in the list in order to facilitate access to all entries manually.

21. Consider claim 24, neither Fortier or Badarneh specifically teach wherein said second set of data records represents all device functions or device application activateable by speech recognition. However, if all the menu entries are activateable by speech recognition in Fortier, then it would have been obvious to one of ordinary skill in the art at the time of the invention that when the menu is displayed in Badarneh, all of

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the entries that would have been activateable by speech recognition would appear in the list in order to facilitate access to all entries manually.

22. Claim 25 contains similar limitations to claim 21, and is accordingly rejected for similar reasons.

23. Claim 26 contains similar limitations to claim 22, and is accordingly rejected for similar reasons.

24. Claim 27 contains similar limitations to claim 23, and is accordingly rejected for similar reasons.

25. Claim 28 contains similar limitations to claim 24, and is accordingly rejected for similar reasons.

26. Claim 29 contains similar limitations to claim 21, and is accordingly rejected for similar reasons.

27. Claim 30 contains similar limitations to claim 22, and is accordingly rejected for similar reasons.

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28. Claim 31 contains similar limitations to claim 23, and is accordingly rejected for similar reasons.

29. Claim 32 contains similar limitations to claim 24, and is accordingly rejected for similar reasons.

(10) Response to Argument

Claim 1:

Appellant argues, see Appeal Brief pages 7-9, that Fortier does not teach limitations of claim 1 as suggested by the previous office action, the examiner respectfully disagrees. Applicant argues on page 8:

It is clearly and unambiguously comprehended by reading the above sections of claim 1 that the mobile communication device of the present invention is configured to: (1) receive an initial user input, (2) prepare itself for performing a speech recognition, and (3) perform the speech recognition on a received acoustic input. It goes without saying that all these actions are performed by the mobile communication device without transmitting signals to or from another device or system.

It is the examiners position that there is nothing in the claim language to suggest that Fortier does not read on the limitations as suggested in the rejections. The examiner agrees with the Appellant's summary of the workings of Fortier, and that these operations are different than as described in the Appellant's specification. However, these differences are not clear in the claims. There is nothing in the claims that suggest that the speech recognition must be performed at the mobile device, leaving open the possibility of sending speech data to a server for processing as described in Fortier.

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The Examiner notes that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Appellant argues on pages 9 and 10 that Badarneh cannot be combined with Fortier. However, the examiner respectfully disagrees. The Appellant argues:

However, Badarneh cannot be combined with Fortier, because the former relates to a control means on an operating device (i.e. a terminal device) and the latter relates to a network server. Neither Fortier nor Badarneh suggested that a speech recognition algorithm may be installed in the operating device and the backup operation using the actuator on the device to select data records is subsequent to a failure of the speech recognition on an acoustic input.

The Examiner believes that these references would have been obvious to combine by one of ordinary skill in the art at the time of the invention. The fact that Fortier does most of its processing on a server, and Badarneh operates on a mobile device does not affect the combination. Performing speech recognition on a server or performing it on the mobile device is a matter of design choice, where consideration is given to the capabilities of the mobile device, and the amount of data that must be sent over the network to a server. Badarneh was relied upon to teach a back up input operation and also the fact that the terminal device is mobile. The speech recognition function of Fortier, while described as being on a server, could obviously be moved to the mobile device, depending on its capabilities, as a matter of design choice. Therefore the two references are combinable.

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The Appellant argues, see pages 10-11, that Smith does not teach the voice tag records associated with control functions the examiner respectfully disagrees. The Appellant points out that Smith allows voice dialing and points out that this function is different than the functions described in specification, where the functions may not include voice dialing. However, it is noted that this distinction fails to appear in the claims. Even if the claims could be interpreted as being distinct from voice dialing functions, Smith at least suggests voice commands for other functions, as at step 635 on Figure 6, a user may state "directory" which appears to be similar to a Missed calls list that the applicant gives as an example on page 13 in the application as originally filed. Therefore Smith at least suggests the limitations.

Claims 3-6:

The appellant argues, see page 11, that claims 3-6 are allowable due to their dependency on claim 1. The examiner believes, as laid out above, that claim 1 is not allowable, and therefore claims 3-6 are not allowable on the basis of their dependency.

Claim 9:

The appellant argues, see page 11, that claim 9 is allowable because it contains similar limitations as claim 1. Applicant argues on page 8:

It is clearly and unambiguously comprehended by reading the above sections of claim 1 that the mobile communication device of the present invention is configured to: (1) receive an initial user input, (2) prepare itself for performing a speech recognition, and (3) perform the speech recognition on a received acoustic input. It goes without saying that all these actions are performed by the

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mobile communication device without transmitting signals to or from another device or system.

It is the examiners position that there is nothing in the claim language to suggest that Fortier does not read on the limitations as suggested in the rejections. The examiner agrees with the Appellant's summary of the workings of Fortier, and that these operations are different than as described in the Appellant's specification. However, these differences are not clear in the claims. There is nothing in the claims that suggest that the speech recognition must be performed at the mobile device, leaving open the possibility of sending speech data to a server for processing as described in Fortier. The Examiner notes that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Appellant argues on pages 9 and 10 that Badarneh cannot be combined with Fortier. However, the examiner respectfully disagrees. The Appellant argues:

However, Badarneh cannot be combined with Fortier, because the former relates to a control means on an operating device (i.e. a terminal device) and the latter relates to a network server. Neither Fortier nor Badarneh suggested that a speech recognition algorithm may be installed in the operating device and the backup operation using the actuator on the device to select data records is subsequent to a failure of the speech recognition on an acoustic input.

The Examiner believes that these references would have been obvious to combine by one of ordinary skill in the art at the time of the invention. The fact that Fortier does most of its processing on a server, and Badarneh operates on a mobile

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device does not affect the combination. Performing speech recognition on a server or performing it on the mobile device is a matter of design choice, where consideration is given to the capabilities of the mobile device, and the amount of data that must be sent over the network to a server. Badarneh was relied upon to teach a back up input operation and also the fact that the terminal device is mobile. Performing speech recognition at a mobile device is thus a known option. The speech recognition function of Fortier, while described as being on a server, could obviously be moved to the mobile device, as a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. It would have been obvious to one of ordinary skill in the art at the time of the invention to try and to anticipate success for this combination.

Therefore the two references are combinable.

The Appellant argues, see pages 10-11, that Smith does not teach the voice tag records associated with control functions the examiner respectfully disagrees. The Appellant points out that Smith allows voice dialing and points out that this function is different than the functions described in specification, where the functions may not include voice dialing. However, it is noted that this distinction fails to appear in the claims. Even if the claims could be interpreted as being distinct from voice dialing functions, Smith at least suggests voice commands for other functions, as at step 635 on Figure 6, a user may state "directory" which appears to be similar to a Missed calls list that the applicant gives as an example on page 13 in the application as originally filed. Therefore Smith at least suggests the limitations.

Claim 10:

The appellant argues, see pages 11-12, that claim 10 is allowable because it contains similar limitations as claim 1. Applicant argues on page 8:

It is clearly and unambiguously comprehended by reading the above sections of claim 1 that the mobile communication device of the present invention is configured to: (1) receive an initial user input, (2) prepare itself for performing a speech recognition, and (3) perform the speech recognition on a received acoustic input. It goes without saying that all these actions are performed by the mobile communication device without transmitting signals to or from another device or system.

It is the examiners position that there is nothing in the claim language to suggest that Fortier does not read on the limitations as suggested in the rejections. The examiner agrees with the Appellant's summary of the workings of Fortier, and that these operations are different than as described in the Appellant's specification. However, these differences are not clear in the claims. There is nothing in the claims that suggest that the speech recognition must be performed at the mobile device, leaving open the possibility of sending speech data to a server for processing as described in Fortier. The Examiner notes that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Appellant argues on pages 9 and 10 that Badarneh cannot be combined with Fortier. However, the examiner respectfully disagrees. The Appellant argues:

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However, Badarneh cannot be combined with Fortier, because the former relates to a control means on an operating device (i.e. a terminal device) and the latter relates to a network server. Neither Fortier nor Badarneh suggested that a speech recognition algorithm may be installed in the operating device and the backup operation using the actuator on the device to select data records is subsequent to a failure of the speech recognition on an acoustic input.

The Examiner believes that these references would have been obvious to combine by one of ordinary skill in the art at the time of the invention. The fact that Fortier does most of its processing on a server, and Badarneh operates on a mobile device does not affect the combination. Performing speech recognition on a server or performing it on the mobile device is a matter of design choice, where consideration is given to the capabilities of the mobile device, and the amount of data that must be sent over the network to a server. Badarneh was relied upon to teach a back up input operation and also the fact that the terminal device is mobile. The speech recognition function of Fortier, while described as being on a server, could obviously be moved to the mobile device, depending on its capabilities, as a matter of design choice. Therefore the two references are combinable.

The Appellant argues, see pages 10-11, that Smith does not teach the voice tag records associated with control functions the examiner respectfully disagrees. The Appellant points out that Smith allows voice dialing and points out that this function is different than the functions described in specification, where the functions may not include voice dialing. However, it is noted that this distinction fails to appear in the claims. Even if the claims could be interpreted as being distinct from voice dialing

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functions, Smith at least suggests voice commands for other functions, as at step 635 on Figure 6, a user may state "directory" which appears to be similar to a Missed calls list that the applicant gives as an example on page 13 in the application as originally filed. Therefore Smith at least suggests the limitations.

Claims 12-16 and 25-28:

The appellant argues, see page 12, that claims 12-16 and 25-28 are allowable due to their dependency on claim 10. The examiner believes, as laid out above, that claim 10 is not allowable, and therefore claims 12-16 and 25-28 are not allowable on the basis of their dependency.

Claim 17:

The appellant argues, see pages 12, that claim 17 is allowable because it contains similar limitations as claim 1. Applicant argues on page 8:

It is clearly and unambiguously comprehended by reading the above sections of claim 1 that the mobile communication device of the present invention is configured to: (1) receive an initial user input, (2) prepare itself for performing a speech recognition, and (3) perform the speech recognition on a received acoustic input. It goes without saying that all these actions are performed by the mobile communication device without transmitting signals to or from another device or system.

It is the examiners position that there is nothing in the claim language to suggest that Fortier does not read on the limitations as suggested in the rejections. The examiner agrees with the Appellant's summary of the workings of Fortier, and that these operations are different than as described in the Appellant's specification. However,

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these differences are not clear in the claims. There is nothing in the claims that suggest that the speech recognition must be performed at the mobile device, leaving open the possibility of sending speech data to a server for processing as described in Fortier.

The Examiner notes that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Appellant argues on pages 9 and 10 that Badarneh cannot be combined with Fortier. However, the examiner respectfully disagrees. The Appellant argues:

However, Badarneh cannot be combined with Fortier, because the former relates to a control means on an operating device (i.e. a terminal device) and the latter relates to a network server. Neither Fortier nor Badarneh suggested that a speech recognition algorithm may be installed in the operating device and the backup operation using the actuator on the device to select data records is subsequent to a failure of the speech recognition on an acoustic input.

The Examiner believes that these references would have been obvious to combine by one of ordinary skill in the art at the time of the invention. The fact that Fortier does most of its processing on a server, and Badarneh operates on a mobile device does not affect the combination. Performing speech recognition on a server or performing it on the mobile device is a matter of design choice, where consideration is given to the capabilities of the mobile device, and the amount of data that must be sent over the network to a server. Badarneh was relied upon to teach a back up input operation and also the fact that the terminal device is mobile. The speech recognition function of Fortier, while described as being on a server, could obviously be moved to

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the mobile device, depending on its capabilities, as a matter of design choice.

Therefore the two references are combinable.

The Appellant argues, see pages 10-11, that Smith does not teach the voice tag records associated with control functions the examiner respectfully disagrees. The Appellant points out that Smith allows voice dialing and points out that this function is different than the functions described in specification, where the functions may not include voice dialing. However, it is noted that this distinction fails to appear in the claims. Even if the claims could be interpreted as being distinct from voice dialing functions, Smith at least suggests voice commands for other functions, as at step 635 on Figure 6, a user may state "directory" which appears to be similar to a Missed calls list that the applicant gives as an example on page 13 in the application as originally filed. Therefore Smith at least suggests the limitations.

Claims 19-24 and 29-32:

The appellant argues, see page 12, that claims 19-24 and 29-32 are allowable due to their dependency on claim 17. The examiner believes, as laid out above, that claim 17 is not allowable, and therefore claims 19-24 and 29-32 are not allowable on the basis of their dependency.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Douglas C Godbold/
Examiner, Art Unit 2626

Conferees:

/Richemond Dorvil/
Supervisory Patent Examiner, Art Unit 2626

/Talivaldis Ivars Smits/
Primary Examiner, Art Unit 2626

/Douglas C Godbold/
Examiner, Art Unit 2626